

NOT TO BE PUBLISHED

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Sacramento)

In re M.B., a Person Coming Under the Juvenile
Court Law.

C072208

THE PEOPLE,

(Super. Ct. No. JV132938)

Plaintiff and Respondent,

v.

M.B.,

Defendant and Appellant.

Following a contested jurisdiction hearing, the juvenile court sustained a delinquency petition (Welf. & Inst. Code, § 602) after finding the minor, M.B., committed assault with a deadly weapon with an enhancement for personally inflicting

great bodily injury (Pen. Code, §§ 245, subd. (a)(1), 12022.7),¹ second degree burglary, a misdemeanor (§ 459), possession of a dirk or dagger (former § 12020) and misdemeanor battery (§ 242). The juvenile court found the minor to be a ward of the court, ordered him to serve 193 days in juvenile hall with 193 days' credit, and placed him on probation with level A placement.

The minor subsequently admitted violating probation by giving a false identity to a police officer (§ 148.9). Following a contested disposition hearing, the juvenile court ordered the minor to serve 42 days in juvenile hall with 42 days' credit, and reinstated probation with level A placement.

On appeal, the minor contends it was an abuse of discretion for the juvenile court to continue level A placement rather than placing him with his mother in Oregon. We affirm.

BACKGROUND

The Prior Petition and Disposition

The minor was born in February 1997. On May 27, 2011, he shot a woman in the leg with a slingshot. He was cited for misdemeanor battery and released to his mother.

The minor ran away from home in August 2011. A warrant for his arrest was issued after he failed to appear at a settlement conference. He was arrested and returned to his mother's custody with an electronic monitor on August 24, 2011.

On September 6, 2011, Michael Cater was sleeping in a park when he was awakened by a fight between the minor and Cater's ex-girlfriend. When Cater intervened, the minor threatened to beat him and sexually assault the woman. The minor struck Cater and threw a knife into his abdomen before fleeing. Cater, who was falling in and out of consciousness, was transported to the hospital in an ambulance.

¹ Undesignated statutory references are to the Penal Code.

Later that day, the minor entered Sears at Arden Fair Mall, where he took some boxing gloves, a hat, a vest, and a pair of sunglasses without paying. When apprehended, he was found carrying a knife and wearing an ankle monitor. The minor was arrested and booked into juvenile hall.

At the disposition hearing, the minor requested placement with his mother in Medford, Oregon. The probation department recommended the same disposition. The intake report noted there were four substantiated child welfare referrals for the minor in Monterey and Sacramento counties between 2001 and 2006. The minor's mother had a criminal history which includes a 2006 conviction for willful cruelty to a child.

The juvenile court found the minor was a "victim" for most of his life as he had "not received the support from parents and family he has a right to expect, which we all have a right to expect, for years." It did not excuse his behavior, but the juvenile court took it into account in the disposition. Accordingly, the juvenile court removed him from home and put him in level A placement rather than the more restrictive level B placement.

Current Proceedings

Following his May 2012 placement, the minor received 26 incident reports for disrespecting staff, not following instructions, altercations with other residents and leaving without permission. When the minor absconded from the facility on August 8, 2012, his placement services were terminated and an arrest warrant was issued.

The minor entered Evangeline's, a store in Old Sacramento, on August 15, 2012, and tried to steal two knives. He gave a false name to officers after he was apprehended. He was then arrested, booked and transported to juvenile hall.

At the disposition hearing, the minor renewed his request to be placed with his mother in Oregon. The minor's mother informed the court she had a residence in Oregon, where she lived with the minor's siblings. She had family in the area, excellent mental health community resources, and a good school district. She was employed and

her boss was supportive, having driven her from Oregon to Sacramento for the hearing. She presented the juvenile court with a list of available resources, which was admitted into evidence.

According to the mother, the minor would attend a school that was less than a 10-minute walk from her home. She planned to escort him to school. There was also a support hotline for parents she could use if she needed to “vent” or get help obtaining community service resources.

The probation report found the minor was at a high risk to reoffend. He was in the process of being terminated from his group home when he absconded. The minor told the intake officer he was staying on the street when apprehended.

The report also noted the minor’s mother was supportive and had submitted a list of available services if her son was placed with her, including drug and alcohol counseling, as well as family counseling. The probation department recommended placing the minor in Oregon with his mother.

The juvenile court denied the request for placement in Oregon and continued level A placement. Noting the “extensive information” presented by the minor’s mother on services available in Oregon, the juvenile court nonetheless found the minor appeared to be “a very intelligent young man,” but “one who needs to finish some services so that he can benefit from them and return home.”

DISCUSSION

The minor contends it was an abuse of discretion for the juvenile court to continue his level A placement rather than placing him in Oregon with his mother. We disagree.

We review a juvenile court’s dispositional order for abuse of discretion. (*In re A.E.* (2008) 168 Cal.App.4th 1, 4.) “An appellate court will not lightly substitute its decision for that rendered by the juvenile court. We must indulge all reasonable inferences to support the decision of the juvenile court and will not disturb its findings when there is substantial evidence to support them. [Citations.] In determining whether

there was substantial evidence to support the commitment, we must examine the record presented at the disposition hearing in light of the purposes of the Juvenile Court Law. [Citations.]” (*In re Michael D.* (1987) 188 Cal.App.3d 1392, 1395.)

Welfare and Institutions Code section 202 informs the juvenile court’s exercise of discretion in selecting the proper placement for a juvenile who is a ward of the court.² That section “emphasizes the protection and safety of the public. [Citation.] The significance of this . . . is that when we assess the record in light of the purposes of the Juvenile Court Law [citation], we evaluate the exercise of discretion with punishment and public safety and protection in mind.” (*In re Lorenza M.* (1989) 212 Cal.App.3d 49, 57-58, fn. omitted.)

The minor points out that he was 15 at the disposition hearing and violated his probation by committing a misdemeanor. Admitting he “did poorly in placement,” the minor asserts the record, when viewed as a whole, demonstrates he should be placed with his mother in Oregon. In support of his claim, minor points out his only prior offense took place when he was 14 “and associating with a group of minors that were a negative influence.” According to the minor, placement in Oregon with his mother and extended family would best serve the interests of Welfare and Institutions Code section 202 by

² Welfare and Institutions Code section 202, subdivision states in pertinent part: “(a) The purpose of this chapter is to provide for the protection and safety of the public and each minor under the jurisdiction of the juvenile court and to preserve and strengthen the minor’s family ties whenever possible, removing the minor from the custody of his or her parents only when necessary for his or her welfare or for the safety and protection of the public. If removal of a minor is determined by the juvenile court to be necessary, reunification of the minor with his or her family shall be a primary objective. If the minor is removed from his or her own family, it is the purpose of this chapter to secure for the minor custody, care, and discipline as nearly as possible equivalent to that which should have been given by his or her parents. This chapter shall be liberally construed to carry out these purposes.”

reunifying him with his family and removing him from the “negative influence of his previous associates.”

The minor’s initial offenses presented significant danger to public safety. He engaged in an unprovoked assault with a deadly weapon that seriously injured and endangered his victim’s life. At the first disposition hearing, the juvenile court rejected Oregon placement in part because doing so would deprive the court of “any ability to set the terms and conditions should he choose to live here in Sacramento afterwards.” The minor then failed to improve during his placement, committing so many infractions, more than two dozen, he would have been terminated from the home had he not fled and lived on the streets. The minor continued living on the streets until he was caught trying to steal knives and arrested.

The minor’s prior offenses and behavior up to the disposition at issue here present a real and sustained danger to public safety. This on-going danger and his failure to rehabilitate required the continued close supervision of the juvenile court. Even if the minor could get superior services in an Oregon placement, his history of absconding raises a reasonable concern that those services may not be used. The juvenile court found the minor was a “victim” for most of his life as he had “not received the support from parents and family he has a right to expect, which we all have a right to expect, for years.” While his mother has now tried to identify services for her son, as the juvenile court noted, her own misconduct and the minor’s hostile home life, generally, were likely catalysts for his dangerous behavior.

In light of the significant risks to public safety posed by the minor and his unwillingness or inability to conform to lawful behavior, it was not an abuse of discretion for the juvenile court to continue placement in California where he could be supervised by the court rather than sending him to another state to be with a parent whose conduct was already a problem, where he would be without the benefit of services with which the juvenile court was familiar.

DISPOSITION

The judgment is affirmed.

NICHOLSON, Acting P. J.

We concur:

ROBIE, J.

DUARTE, J.